

§ 35.936-20

amount involved in any one transaction, all items which should properly be grouped together must be included. Reasonable competition shall be obtained.

(b) Subagreements for small purchases need not be in the form of a bilaterally executed written agreement. Where appropriate, unilateral purchase orders, sales slips, memoranda of oral price quotations, and the like may be used to minimize paperwork. Retention in the purchase files of these documents and of written quotations received, or references to catalogs or printed price lists used, will suffice as the record supporting the price paid.

§ 35.936-20 Allowable costs.

(a) Incurring costs under subagreements which are not awarded or administered in compliance with this part or part 33 of this subchapter, as appropriate, shall be cause for disallowance of those costs.

(b) Appropriate cost principles which apply to subagreements under EPA grants are identified in § 30.710 of this subchapter. Under that section, the contractor's actual costs, direct and indirect, eligible for Federal participation in a cost reimbursement contract shall be those allowable under the applicable provisions of 41 CFR 1-15.2 (Principles and Procedures for Use in Cost-Reimbursement Type Supply and Research Contracts With Commercial Organizations) and 41 CFR 1-15.4 (Construction and Architect-Engineer Contracts).

(c) Reasonable costs of compliance with the procurement and project management requirements of these regulations are allowable costs of administration under the grant. Costs of announcement, selection, negotiation, and cost review and analysis in connection with procurement of architectural or engineering services are allowable, even when conducted before award of the grant. Legal and engineering costs which a grantee is required to incur in a protest action under § 35.939 are allowable.

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§ 35.936-21 Delegation to State agencies; certification of procurement systems.

(a) Under § 35.912 and subpart F of this part, the Regional Administrator may delegate authority to a State agency to review and certify the technical and administrative adequacy of procurement documentation required under these sections.

(b) If a State agency believes that State laws which govern municipal procurement include the same requirements or operate to provide the same protections as do §§ 35.936, 35.937 and 35.938, the State may request the Administrator to approve the State system instead of the procedures of these sections. EPA shall review the State system to determine its adequacy.

(c) If a State agency determines that an applicant's procurement ordinances or applicable statutes include the same requirements or operate to provide the same protections as do §§ 35.936, 35.937 and 35.938, the State may certify (accompanied by appropriate documentation) the adequacy of the municipality's ordinances and statutes and request the Administrator to approve the municipality's system instead of the procedures of these sections. EPA shall conduct or may request the State to conduct a review of the municipality's system to determine its adequacy.

§ 35.936-22 Bonding and insurance.

(a) On contracts for the building and erection of treatment works or contracts for sewer system rehabilitation exceeding \$100,000, each bidder must furnish a bid guarantee equivalent to 5 percent of the bid price. In addition, the contractor awarded a construction contract for the building and erection of treatment works or sewer system rehabilitation must furnish performance and payment bonds, each of which shall be in an amount not less than 100 percent of the contract price. Construction contracts less than \$100,000 shall be subject to State and local requirements for bid guarantees, performance bonds, and payment bonds. For contracts or subcontracts in excess of \$100,000 the Regional Administrator